

Aviano EA-6B Gondola Mishap- Part B

Admission of Guilt

Captain Schweitzer chose to accept the consequences for his actions in destroying the videotape by pleading guilty. Following the advice of his legal counsel to protect his rights, Schweitzer remained silent for over a year and was presumed innocent. The legal system even pressured him to plead not guilty, even though he knew he was guilty. At his sentencing hearing, the Judge gave the following advice to Captain Schweitzer:

Even if you believe you are guilty, you still have a legal and moral right to enter pleas of not guilty, and to require the government to prove its case against you, if it can, by legal and competent evidence beyond a reasonable doubt. If you were to plead not guilty, then you would be presumed under the law to be innocent; and only by introducing evidence and proving your guilt beyond a reasonable doubt, could the government overcome this presumption of innocence.^{i[1]}

Schweitzer pleaded guilty to charges of “Conduct Unbecoming an Officer and a Gentleman” for conspiracy to obstruct justice by the destruction of the tape. With his guilty plea the prosecution did not have the burden of proving his guilt. The jury’s only task was to determine the sentence for his actions.

The prosecution’s case centered on confirming Captain Schweitzer’s guilt. Their approach was to ensure the jury understood he knowingly and willingly destroyed the tape to obstruct the Italian criminal investigation. The primary witness who made the case for the prosecution was Captain Seagraves.

The defense used numerous affidavits and witnesses to attest to the character and integrity of Captain Schweitzer. He also took the stand himself to tell his story. Since the tape was destroyed without anyone viewing it, nobody can say what was on it. According to his testimony, the tape could have contained at most a few minutes of low-level flying, an inverted ridge line crossing, a picture of Schweitzer’s smiling face, and some high-level flying. Schweitzer explained his reasons for destroying the tape: “All I could think about was my face superimposed next to the blood in the snow.”^{iii[2]}

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When questioned about what he thought of his actions, his response was: “It was the wrong thing. It was terribly wrong. It’s not right as a person. It’s not right as a Marine Corps Officer. It’s not right as Joe Schweitzer. It was wrong.”^{iii[3]} In the face of numerous direct and cross-examination questions, he continually gave similar answers. He took the tape, he deceived those around him and the investigators, and he pleaded guilty, accepting responsibility for his actions as a Marine officer.^{iv[4]} Ultimately, he realized that this act not only undermined his integrity, but also his case:

I knew it was a wrong act. It was a stupid thing to do. I wish I still had it because I think it would answer a lot of questions that everybody wants answered, basically my humiliation, that I tried to prevent, is what I'm dealing with right now.^{v[5]}

Schweitzer could have received a maximum sentence of forfeiture of all pay and allowances, dismissal from the service, and other punishments as adjudged, such as reprimand, loss of numbers, or restriction.^{vi[6]} ^{vii[7]} On 2 April 1999, Schweitzer was sentenced to dismissal from the service.^{viii[8]}

Shortly after Captain Schweitzer's sentencing, Captain Ashby went to trial for his actions concerning the videotape. He pleaded not guilty to the charges of "Conduct Unbecoming an Officer and a Gentlemen." He was found guilty and sentenced to six months confinement and a dismissal from the Marine Corps. Captain Ashby served his sentence in the brig at Camp Lejuene, North Carolina. Captains Seagraves and Raney remain on active duty in the Marine Corps.

^{i[1]} Record of Trial (ROT) US versus Captain Joseph P. Schweitzer General Court-Martial p2723

^{ii[2]} ROT p 3457

^{iii[3]} ROT p 3459

^{iv[4]} ROT pp 3440-3480

^{v[5]} ROT pp 2753

^{vi[6]} ROT Vol 51/51 AE CCXXXIV

^{vii[7]} Loss of numbers refers to demoting officers within their rank. Each rank has its officers on a seniority list from the most senior to the most junior. A loss of numbers would move the officer down the list thus making the officer junior to his peers and delaying his time to be considered promotion.

^{viii[8]} ROT p 3438